REMARKS/ARGUMENTS

This Amendment is responsive to the Office Action mailed September 14, 2009. Paragraphs **[0026]** and **[0023]** of the specification have been amended to correct minor typographical errors. Claims 16, 19, 31, 33, 41, 55, 57, 65, 82, 83, 87, 95, 97, 103, 104, 107, 113 and 114 have been either previously or currently canceled. Claims 1, 18, 25, 43, 49, 67, 73, 80, 81, 93 and 112 have been amended. Claims 1-15, 17, 18, 20-30, 32, 34-40, 42-54, 56, 58-64, 66-81, 84-86, 88-94, 96, 98-102, 105, 106, 108-112 and 115-130 are pending.

Claim Rejections – 35 USC § 103

In the Office Action, claims 1–2, 5, 7–12, 14, 16–18, 20–23, 25–26, 29, 32, 35–36, 38, 41–47, 49–50, 53, 56–60, 62, 65–71, 73–74, 77, 79–81, 84–86, 91, 93–94, 96–97, 101–102, 105–106,111–112, 115–118, 122 and 124–130 are rejected under 35 USC § 103(a) as being unpatentable over Christopoulos et al. (US 2001/0047517) in view of Kost et al. (US 2002/0154691).

In the Office Action, claims 3–4, 24, 27–28, 48, 51–52, 72, 75–76, 88–90, 98–100, 108–110 and 119–121 are rejected under 35 USC § 103(a) as being unpatentable over Christopoulos et al. (US 2001/0047517) and Kost et al. (US 2002/0154691), and further in view of Vetro et a. (US 2004/0203851).

In the Office Action, claims 16, 30, 54 and 78 are rejected under 35 USC § 103(a) as being unpatentable over Christopoulos et al. (US 2001/0047517), and in view of Kost et al. (US 2002/0154691) as applied to claims 2, 26, 50 and 74 above, and in view of Wang et al. (US 2002/0152317).

In the Office Action, claims 13, 15, 37, 39–40, 61 and 63–64 are rejected under 35 USC § 103(a) as being unpatentable over Christopoulos et al. (US 2001/0047517), in view of Kost et al. (US 2002/0154691), and further in view of Anand et al. (US 6,920,179).

In the Office Action, claims 92 and 123 are rejected under 35 USC § 103(a) as being unpatentable over Christopoulos et al. (US 2001/0047517), in view of Kost et al. (US 2002/0154691),as applied to claims 14, 38, 62, 81 and 112, and further in view of Official Notice taken by the Examiner.

Applicant respectfully traverses each of these rejections to the extent such rejections may be considered applicable to the claims as amended. The applied references fail to

disclose or suggest the inventions defined by Applicant's amended claims, and provide no teaching that would have suggested an apparent reason for a person of ordinary skill in the art to arrive at the claimed invention.

Christopoulos in view of Kost

For example, Christopoulos in view of Kost lack any teaching to suggest that the user preference further specifies a demand to provide the multimedia stream at a lowest cost in terms of a billing rate, and that the encode manager further selects one of the plurality of encoding parameter sets that provides a high rate of compression and a lower quality of service to provide the lowest cost in accordance with the demand specified by the user preference, as required by Applicant's currently amended claim 1.

As an initial matter, Applicant notes that claim 1 has been amended to incorporate the limitations cited above, which were previously presented by now cancelled claim 16. In rejecting claim 16, the Office Action assumes the term "cost" previously recited by claim 16 to be cost in terms of bandwidth. Applicant has further amended this limitation as presented in claim 1 to clarify that the cost is in terms of billing rate, which is substantially different than a cost in terms of bandwidth. When clarified as such, the applied references lack any teaching to suggest that the user preference further specifies a demand to provide the multimedia stream at ***a lowest cost in terms of a billing rate***, as required by Applicant's currently amended claim 1.

Instead, Christopoulos teaches generally to a technique referred to as "universal access."[1] Universal access, according to Christopoulos, involves the ability of user devices to universally process multimedia information.[2] This universal access "allows an access device with individual limitations to obtain the highest quality content possible, whether as a function of the limitations or as a function of user specification of preference."[3] Christopoulos, however, does not indicate the extent or scope of the user specification or preference, much less, suggest that the user preference further specifies a demand to provide the multimedia stream at a lowest cost in terms of a billing rate, as required by Applicant's

[1] ¶ [0004].
[2] ¶ [0004].
[3] ¶ [0004].

currently amended claim 1. Indeed, Christopoulos is silent with respect to this feature of Applicant's currently amended claim 1.

Kost is also silent with respect to this feature of Applicant's currently amended claim 1. In fact, Applicant can find no mention of costs in Kost, except with respect to a cost of a server in paragraph [0087] of Kost. Moreover, Kost is silent with respect to user preferences. Consequently, neither Cristopolous nor Kost teach or suggest that the user preference further specifies a demand to provide the multimedia stream at ***a lowest cost in terms of a billing rate***, as required by Applicant's currently amended claim 1.

As the applied references lack any teaching to suggest this feature, it follows then that the applied references similarly lack any teaching to suggest that the encode manager further selects one of the plurality of encoding parameter sets that provides a high rate of compression and a lower quality of service ***to provide the lowest cost*** in accordance with the demand specified by the user preference, as further required by Applicant's currently amended claim 1.

To the extent independent claims 25, 49, 73, 80, 81, 93, 102 and 112 recite, or have been amended to recite, limitations similar to those of claim 1 on which the above arguments are predicated, the arguments made above with respect to claim 1 apply to claims 25, 49, 73, 80, 81, 93, 102 and 112.

By virtue of claims 2, 5, 7–12, 14, 17, 18, 20–23, 26, 29, 32, 35–36, 38, 41–47, 50, 53, 56, 58-60, 62, 66–71, 74, 77, 79, 84–86, 91, 94, 96–97, 101, 105–106, 111, 115–118, 122 and 124–130 depend from 1, 25, 49, 73, 80, 81, 93, 102 and 112, the arguments made above with respect to independent claims 1, 25, 49, 73, 80, 81, 93, 102 and 112 apply to dependent claims 2, 5, 7–12, 14, 16–18, 20–23, 26, 29, 32, 35–36, 38, 41–47, 50, 53, 56–60, 62, 65–71, 74, 77, 79, 84–86, 91, 94, 96–97, 101, 105–106,111, 115–118, 122 and 124–130.

For the remainder of the rejections, Applicant notes initially that each of the remaining rejections combine the teachings of Christopoulos/Kost (discussed above) with the teachings of a different additional reference. As described above, neither Christopoulos nor Kost teaches the particular user preference directed to a lower cost in terms of billing rate in the manner required, for example, by Applicant's currently amended claim 1. None of the additional references provide any teaching to overcome the deficiencies noted above

with respect to claim 1. Each of these additional references cited by the Examiner is addressed below.

Vetro

Vetro describes a system by which to provide environment aware services (EAS) to mobile terminal devices.[4] The Vetro system delivers this environment awareness via an environment description, which may include, for example, device capabilities, network conditions, delivery capabilities, user preferences, mobility characteristics, etc.[5] Vetro suggests that a service manager or an application service provider may utilize the environment description to adapt and delivery personalized and general services.[6] The Vetro system may periodically update the environment descriptions to accommodate, for example, new environments or new machines capable of performing a specific type of content adaption.[7] The Vetro system may include a content adaption engine that reformats, based on one or more environment descriptions, content received from an application service provider in a first format into a second format supported by a mobile device to which the content is destined.[8]

While Vetro discusses user preferences, Vetro explicitly defines user preferences as including "filtering and search preferences, browsing preferences, display preferences and QoS preferences, as well as demographic information, such as gender and age."[9] These Vetro user preferences are apparently directed to preferences with respect to browsing the Internet or receiving content and do not represent user preferences that specify a demand to provide the multimedia stream at a lowest cost in terms of a billing rate, as required by Applicant's currently amended claim 1. Consequently, Vetro fails to cure the deficiencies of Christopoulos/Kost combination noted above with respect to claim 1.

As claims 3–4, 24, 27–28, 48, 51–52, 72, 75–76, 88–90, 98–100, 108–110 and 119–121 depend from respective claims 1, 25, 49, 73, 80, 81, 93, 102 and 112, the above arguments made with respect to the independent claims also apply to these dependent claims. Christopoulos in view of Kost and Vetro therefore fails to disclose each and every

[4] ¶ [0020].
[5] *Id.*
[6] *Id.*
[7] ¶ [0065].
[8] ¶'s [0076] and [0079]–[0082].

limitation set fourth in claims 3–4, 24, 27–28, 48, 51–52, 72, 75–76, 88–90, 98–100, 108–110 and 119–121.

Wang

Wang describes a system that is capable of simultaneously providing different encodings of the same bitstream, where each encoding may encode the same bitstream at a different rate to accommodate the bandwidth requirements of different clients.[10] Wang suggests that different bandwidth requirements may occur as a result of different forms of connections. For example, Wang explains that the bandwidth at the client ends can be very different, as one client may connect via a phone modem at 56 Kb/s while another client may connect via a Cable modem at a few Mb/s.[11] Wang however is silent with respect to the user preference required by Applicant's currently amended claim 1 and therefore fails to cure the deficiencies of Christopoulos/Kost noted above with respect to claim 1.

As claims 16, 30, 54 and 78 depend from respective claims 1, 25, 49 and 73, Applicant submits that the above arguments made with respect to the independent claims also apply to these dependent claims. Christopoulos in view of Kost and Wang therefore fails to disclose each and every limitation set fourth in claims 16, 30, 54 and 78.

Anand

Anand describes a system for progressively encoding a bit stream for transmission over a heterogeneous network.[12] According to Anand, a progressively encoded bit stream may be "configured so as to be decodable at any one of a series of increasing bit rates up to a maximum bit rate, depending on which of a number of corresponding portions of the progressive coded video bit stream are received by the decoder."[13] Anand suggests that the progressive transmission video techniques are highly scalable in bit rate, and thereby allow adaptability to different bandwidth conditions over a heterogeneous network.[14] Anand, like Wang, is however silent with respect to the user preference required by Applicant's currently amended claim 1.

[9] ¶ [0040].
[10] ¶'s [0010] and [0005].
[11] ¶'s [00
[12] Abstract.
[13] Column 3, lines 13–20.

As claims 13, 15, 37, 39–40, 61 and 63–64 depend from respective claims 1, 25 and 49, the above arguments made with respect to the independent claims also apply to these dependent claims. Christopoulos in view of Kost and Anand therefore fails to disclose each and every limitation set fourth in claims 13, 15, 37, 39–40, 61 and 63–64.

Official Notice

Applicant submits that the arguments above with respect to independent claims 81 and 112 also apply to dependent claims 92 and 123, as these claims depend from respective independent claims 81 and 112. Because no other reference was combined with Christopoulos and Kost and these applied references provide no teaching to suggest the user preference recited by Applicant's currently amended independent claims, the applied references lacks any teaching to suggest all of the limitation set fourth in claims 92 and 123.

CONCLUSION

For at least the reasons set fourth above, the rejections of Applicant's claims 1-15, 17, 18, 20-30, 32, 34-40, 42-54, 56, 58-64, 66-81, 84-86, 88-94, 96, 98-102, 105, 106, 108-112 and 115-130 under 35 U.S.C. 103(a) must be withdrawn. Accordingly, in light of the amendments contained herein and the arguments above, Applicant submits that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: Dec. 11, 2009

By: _____
Steven R. Thiel, Reg. No. 53,685
858.651.7298

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 651-7298
Facsimile: (858) 658-2502

[14] Column 4, lines 60–65.